

APPEAL NO. 051581
FILED AUGUST 18, 2005

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on June 14, 2005. The two disputed issues at the CCH were: (1) whether the appellant (claimant) sustained a compensable injury on _____; and (2) whether the claimant has had disability resulting from an injury sustained on _____, and if so, for what periods. The hearing officer resolved the disputed issues by deciding that: (1) the claimant sustained a compensable injury on _____; and (2) the claimant sustained disability resulting from an injury sustained on _____, beginning May 1, 2005, and continuing. The claimant appeals the hearing officer's determination that disability began on May 1, 2005, and contends that disability began on March 1, 2005. There is no response from the respondent (carrier). There is no appeal of the hearing officer's determination that the claimant sustained a compensable injury on _____, and that determination has become final under Section 410.169.

DECISION

Reversed and rendered on the disability issue.

It is undisputed on appeal that the claimant sustained a compensable low back injury on _____, when she slipped and fell on the employer's premises while performing her job duties. The claimant continued to work until March 1, 2005, when she saw a doctor for her back injury. The doctor took the claimant off work on March 1, 2005, because of her compensable injury and provided treatment. There are no reports from the doctor that state that the claimant is released to return to work. There are no reports from other doctors regarding the claimant's work status for her _____, compensable injury. The claimant testified without contradiction that her doctor has not released her to return to work and that due to her compensable injury she has been unable to perform her job duties since March 1, 2005.

With regard to the disability issue, the hearing officer's finding of fact, conclusion of law, and decision all reflect a beginning date of disability of May 1, 2005. The carrier has not appealed the hearing officer's determination that the claimant had disability beginning May 1, 2005, and continuing. The claimant has appealed the beginning date of disability, contending that disability began on March 1, 2005. Section 401.011(16) defines disability as the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage. There is no evidence to support the hearing officer's determination that disability began on May 1, 2005. The hearing officer's determination that disability began on May 1, 2005, is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. The great weight and preponderance of the evidence reflects that the claimant's disability began on March 1, 2005.

We reverse the hearing officer's determination that the claimant had disability beginning on May 1, 2005, and continuing, and we render a new decision that as a result of her compensable injury of _____, the claimant had disability beginning on March 1, 2005, and continuing through the date of the CCH on June 14, 2005.

The true corporate name of the insurance carrier is **AMCOMP ASSURANCE CORPORATION** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge